

(h) Crops and land use for which disaster benefits are not applicable include:

(1) Crops not intended for harvest in the year for which disaster benefits are requested.

(2) By-products resulting from processing or harvesting an eligible crop, such as cotton seed, peanut hulls, and wheat or oat straw.

(3) Except for nursery crops, plants that produce an eligible crop, such as strawberry plants and orange trees.

(4) Acreage intended for haying or grazing and designated as ACR or CU for payment.

(5) Crops which the county committee has determined are not eligible for acreage reduction program benefits as a result of failure to comply with contract provisions.

(6) Crops planted as replacement crops on failed or prevented from planted program crop acreage.

(7) Resource conserving use crops as ACR or CU for payment.

(8) Home gardens.

[57 FR 10963, Mar. 31, 1992, as amended at 58 FR 9109, Feb. 19, 1993; 58 FR 51759, Oct. 5, 1993; 60 FR 52612, Oct. 10, 1995; 60 FR 54409, Oct. 23, 1995]

§ 1477.6 Establishment of different payment rates and yields for the same nonprogram crop.

If any crop yield established for a county or other producing area includes irrigated production, the State committee shall:

(a) establish a nonirrigated yield reflecting the expected yield for the crop without irrigation. Such yield shall not exceed the NASS yield. The State committee may set the nonirrigated yield to zero if no production is expected without irrigation. A separate irrigated yield shall not be established.

(b) (1) Producers of nonprogram crops, (except for soybeans, minor oil seeds, sugar beets, sugarcane, quota and nonquota tobacco, peanuts and hay) must provide actual production evidence and production costs for the current year.

(2) Exceptions to paragraph (b)(1) of this section:

(i) If production evidence and production costs cannot be provided for the current year, then 1 of the 3 previous

years production and production costs may be considered.

(ii) The payment yield shall be reduced to not less than 65 percent of the established yield if just 1 of the 3 previous years evidence is used.

(3) If production evidence or costs cannot be provided for the current year or 1 of the 3 previous years, the payment yield shall be reduced to zero, unless one of the following exceptions apply:

(i) If evidence is provided that a market was available for current year production by providing one of the following:

(A) A contract for all expected production or all acres for which disaster benefits are requested; or

(B) Some other acceptable evidence of a market such as a written agreement with a grocer, retailer, wholesaler, or processor.

(ii) The county committee or Federal Crop Insurance Corporation verifies physical evidence of the crops and determines the crop was cared for in a workmanlike manner.

(4) If a producer meets either of the exceptions in paragraphs (3)(i) and (3)(ii) of this section, the county committee has the authority to reduce the yield to not less than 65 percent of the established yield.

(5) The county committee may assign production based on similar farms. The producer must file Form ASCS-574 within 15 calendar days of the disaster occurrence. If no spot check was conducted, the county committee must have personal knowledge of the disaster condition that affected the crop.

[60 FR 52612, Oct. 10, 1995]

§ 1477.7 Filing application for payment.

(a) Applications for payment shall be filed by the applicant with the local FSA office serving the county where the producer's farm is located for administrative purposes.

(b)(1) An application for payment must have been filed as soon as practical after the producer's eligibility has been established in accordance with § 1477.5(a).

(2) Applications for payments made during the initial sign-up period for 1990 and 1991 crop losses must be filed